

ition of the hand, but a more active state which would indicate something of an indecent nature than of course my words previously employed might well link up, how doubly important therefore that there should of been action before there is any possibility of securing a conviction. No let us go back to the beginning. Here we have the spectacle of one DOUCET, admittedly a neurotic of a somewhat nervous temperament and obviously of a confused mentality, constantly endeavouring to initiate his suspicions, he apparently, according to his evidence, decided to go to bed with Sgt JOHNSON having become quite convinced in his own mind that Sgt JOHNSON was a pervert of some particular type. Why he should have considered himself to be the person to become the willing victim could only be known by DOUCET himself, but in reading the evidence as it is, and it would appear that the general background supports the view, that long before he returned, he intended to go to bed with Sgt JOHNSON and went to some trouble to have someone in the vicinity available as a witness. It would appear that some of the preliminary plans must have disappointed him as JOHNSON just made up the bed and went to bed and I want the court to note this fact, that from the time JOHNSON went to bed there is not a single suggestion that he said another word to anybody. Whether he passed out or merely went to sleep is not of course in the evidence and were it not for certain recollections of these two soldiers today of the act of manipulation of DOUCET's penis, the court, I feel, would come to the conclusion that JOHNSON went to bed to sleep and DOUCET went to bed with the idea that some terrible crime was about to be committed on his body. The second and only other witness collaborates, DOUCET today in court. From the evidence the court may infer, and properly, that the second witness was brought into the picture by both, if you believe the evidence, and may well be termed an accomplice. The court accepts the testimony of any independent reliable person but soon becomes wary of any person who might have complicity with the crime whether in its preliminary stage or in the mere mention of the act and on receiving the evidence will attach to it the reliability and credibility of the witness. Notice, witness No 2 does not compare with the 100% willing complicity of witness No 1 but there was an understanding between the two, which brings us back to the reliability and credibility of the evidence given and should cause the court to come to the conclusion that the evidence of witness No 2 is that of an accomplice and they are the only two witnesses you have. I now go back to the Summary. Reliability and Credibility of these two men. I think it is quite clear to the court that at the time of the taking of the Summary of Evidence neither of the witnesses made mention of any activity on the part of Sgt JOHNSON. I would bring to the attention of the Court that the Summary of Evidence was taken on 21 December 1943 which probably would be about 36 hours after the evening in question and that the matter was fresh in the minds of these men giving evidence. Now, SHIELDS admits discussing this phase of the case at three or four different occasions with DOUCET and then he stated that on Sunday last he and DOUCET were together with Prosecutor going over the Summary of Evidence and these two witnesses furnish this additional bit of information. All I can suggest is that the sole purpose of bringing in this additional piece of information in the Court Martial was to take the defence completely by surprise, the most valuable piece of information in the whole case. We do not have particulars of the charge which comes before this court, we rely on what is on the table before us and two witnesses, DOUCET and SHIELDS, very carefully conceal this vital information to take the defence by surprise or else they swore to the truth when they gave evidence on the 21 December 1943 and made up this damning piece of evidence since. Now when you find evidence of such damning type, which you are entitled to believe, that has not been brought out before, you get back to the reliability and credibility of the two witnesses. One of whom is an accomplice and the other I call a stooge. You cannot place reliability on people who have robbed themselves of the right to be considered in the role of independent and reliable men, it is no fault of yours or mine. As there is no reliable evidence there should be no possibility of finding a conviction.